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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,938	05/26/2000	Timothy J Williams	TJW-00100	8295
28960	7590	12/15/2004	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			ART UNIT	PAPER NUMBER

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/579,938	Applicant(s) WILLIAMS, TIMOTHY J	
	Examiner David L. Sorkin	Art Unit 1723	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 03 December 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):
see attached.

David L. Sorkin

David L. Sorkin
Primary Examiner
Art Unit: 1723

DETAILED EXPLANATION

1. Appellant's brief makes reference to 37 CFR 1.192, which has been eliminated.

The brief makes no mention of 37 CFR 41.37 which currently regulates appeal briefs.

2. The brief fails to comply with 37 CFR 41.37 in a variety of aspects.

3. Several aspects of the brief's non-compliance relate to 37 CFR 41.37(c)(1)(v),

"Summary of claimed subject matter", which differs substantively from the

corresponding portion of the former 37 CFR 1.192. Firstly, paragraph (c)(1)(v) requires:

"A concise explanation of the subject matter defined in each of the independent claims

involved in the appeal, which shall refer to the specification by page and line number,

and to the drawings, if any, by reference characters". While the brief includes a general

"Summary of the invention", none of the claims are mentioned at all, and there is no

mention of the drawing or reference characters. Secondly, paragraph (c)(1)(v) requires:

"For each independent claim involved in the appeal and for each dependent claim

argued separately under the provisions of paragraph (c)(1)(vii) of this section, every

means plus function and step plus function as permitted by 35 U.S.C. 112, sixth

paragraph, must be identified and the structure, material, or acts described in the

specification as corresponding to each claimed function must be set forth with reference

to the specification by page and line number, and to the drawing, if any, by reference

characters". The brief makes no attempt to comply with this aspect of the rule despite

recitation of means-plus-function, for example, in independent claim 1, "means for

dispensing..".

Art Unit: 1723

4. A "Grouping of Claims" section is not required by the current rules. Appellant should eliminate this portion of the brief so as to comply with the requirement that the portions which are required are "in the indicated order" (see 37 CFR 41.37(c)(1)).
5. The brief does not comply with 37 CFR 41.37(c)(1)(ix), which requires copies of any evidence together with a statement of where in the record the evidence was entered by the examiner.
6. There is no need to supply with the brief copies of office actions or documents cited on Notices of References Cited or IDSs.


To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of these time periods may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS